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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 01ST DAY OF APRIL 1998

BEFORE:

THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR

H.R.R.P. NUMBER 554/1998

Between:

K. Ramachandra Rao,
s/o Krishna Bhat, major,
Hotel Business,
Prop. Hotel Janatha,
Brahmin Street,
Bellary.

... Petitioner

(By Sri S.A. Sridhara Murthy)

And:

C. Shankar Rao,
s/o late
Shanthilinganna Setty Compound,
III Cross, Gandhinagar,
Bellary.

... Respondent

(By Sri V.V. Gunjal)

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This H.R.R.P. filed u/s 115 of CPC against the order dated 13.1.98 passed in HRC RP No. 24 & 26/96 on the file of the Addl. Dist. Judge, Bellary, allowing the revision petition filed by the owner and dismissing the revision petition filed by the tenant against the order dated 6.9.96 in HRC No. 68/90, by the Prl. Munsiff, Bellary.

This H.R.R.P. is coming on for admission this day, the Court made the following:

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ORDER...

ORDER

Respondents herein filed an eviction petition against the petitioner in respect of the schedule premises situated at Bellary. The schedule premises is a residential house having a ground floor and a first floor. The first floor has an accommodation of 2 rooms, a hall, a bathroom, a kitchen and a passage. The ground floor has two big halls, one room and a kitchen. Petitioner is a tenant in respect of ground floor premises. The ground on which the respondents ~~sought~~ for eviction is that he is a retired Government servant, he has two grown up sons and a grown up daughter besides his wife. At present he has no premises of his own to reside. Therefore he wanted the schedule premises for his residence and also to use a part of the ground floor to carry on the business in electrical goods to augment his income.

2. This petition was resisted by the petitioners and the learned Munsiff in appreciation of the evidence led by the parties, held that the requirements of the

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petitioner is both reasonable and bonafide and he suffers greater hardship. However he ordered eviction of part of the premises.

3. Aggrieved by the said order, both the landlord and tenant filed their Revision Petitions before the learned Addl. Dist.Judge. Learned Addl.Dist.Judge by a common order allowed the petition filed by the landlord/respondent and dismissed the petition filed by the tenant. Learned Dist.Judge has held that having regard to the accommodation available viz., 2 rooms in the first floor and one room in the ground floor and having regard to the further fact that the landlord is a retired Government servant, having 3 grown up children besides he wants to do business in part of the premises, his requirement is for the entire premises. He therefore ordered eviction of the tenant from the entire premises.

4. These two orders have been challenged by the tenant in this petition.

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5. The findings of the learned Dist.Judge is based on evidence of P.W.1 and the admitted facts of the case. As the learned Dist.Judge has held that since the petitioner is a retired Government servant, he is ^{also} entitled to evict the tenant under Sec.21(1)(c) of the Karnataka Rent Control Act.

6. I agree with the reasonings of the learned Judge. There is no merit in this petition. Petition is liable to be rejected and is accordingly rejected.

7. At this stage, learned counsel appearing for the tenant submitted that since his client is carrying on business and is the only source of livelihood, reasonable time of 3 years be granted for him to vacate.

8. Landlord has entered caveat and is represented by a counsel. Sri.Gunjal - learned counsel opposed grant of any time beyond 3 months.

9. Having regard to the fact that the tenant has been carrying on Hotel Business and some of the workers are also depending upon the business, 2 years time is granted to

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the tenant from today to quit and deliver vacant possession of the premises subject to the following conditions:

(a) that the tenant shall file an affidavit undertaking to voluntarily vacate the premises within 2 years from today. Affidavit shall be filed within 4 weeks from today after having served a copy thereof on the landlord's counsel.

(b) that the tenant shall pay the rents regularly as and when it falls due without any default.

(c) that the tenant shall not sublet or sublease the premises.

Petition rejected.

Sd/-
JUDGE

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